

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
[www.energy.ca.gov](http://www.energy.ca.gov)



January 24, 2014

Ms. Jennifer Bernardini  
Office of Associate Chief Counsel  
Passthroughs and Special Industries  
Internal Revenue Service  
1111 Constitution Avenue NW  
Washington, D.C. 20224  
[Jennifer.C.Bernardini@irs.counsel.treas.gov](mailto:Jennifer.C.Bernardini@irs.counsel.treas.gov)

Dear Ms. Bernardini:

As you may recall, the California Energy Commission is an Equivalent Rating Network under IRS Notice 2008-35, as a state agency administering building energy efficiency performance standards. Please see the enclosed Energy Commission Order No. 08-910-11 documenting the findings supporting this authority, and the letters dated September 17, 2008, to you and Mr. Eric Solomon, Assistant Secretary, U.S. Department of the Treasury, informing you of the Energy Commission's status as an Equivalent Rating Network.

As an Equivalent Rating Network, the Energy Commission is authorized to approve Equivalent Calculation Procedures for eligible certifiers to calculate dwelling unit energy consumption to determine eligibility for the New Energy Efficient Home Credit under Internal Revenue Code § 45L. Consistent with Section 4.01(7) of Notice 2008-35, the Energy Commission approved the software program, EnergyPro 4.4, developed by EnergySoft, LLC, for use in determining whether California's energy efficiency standards are satisfied. In 2007 EnergySoft submitted, and Residential Energy Services Network (RESNET) approved, EnergyPro 4.4 for New Energy Efficient Home Credit eligibility beginning with tax year 2007, based on RESNET Publication 06-001. RESNET's approval of EnergyPro 4.4 has continued to exist for each tax year thereafter through 2012.

Pursuant to Public Law 112-240, § 408, EnergyPro 4.7 revises EnergyPro 4.4 to change the "reference house" for tax credit purposes in accordance with chapter 4 of the 2006 International Energy Conservation Code; EnergyPro 4.7 makes no other changes to EnergyPro 4.4. EnergyPro 4.7 also has passed the tests that explicitly address software modeling accuracy that appear in Section 4.1.2 of RESNET Publication No. 13-001. Thus, EnergyPro, as revised to version 4.7, continues to produce

Ms. Jennifer Bernardini  
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comparable results obtained under the procedures prescribed in RESNET Publication No. 05-001 (Nov. 17, 2005) or No. 06-001 (June 1, 2006), and is an Equivalent Calculation Procedure, consistent with Section 4.01(6) of IRS Notice 2008-35. When the list of software programs specified in Section 5.01 of IRS Notice 2008-35 is next updated, the Energy Commission requests that EnergyPro 4.7 be included.

If you have any questions regarding this letter, please contact Mr. Pippin Brehler, Senior Attorney, Chief Counsel's Office, California Energy Commission at (916) 654-5056 or by e-mail at [Pippin.Brehler@energy.ca.gov](mailto:Pippin.Brehler@energy.ca.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. P. Oglesby', with a long horizontal flourish extending to the right.

Robert P. Oglesby  
Executive Director

Enclosures as required by Section 5.02 of IRS Notice 2008-35 (4)

## CALIFORNIA ENERGY COMMISSION

JACKALYNE PFANNENSTIEL

CHAIRMAN

1516 NINTH STREET, MS 33

SACRAMENTO, CA 95814-5512

(916) 864-5036

(916) 853-8040 FAX



September 17, 2008

Ms. Jennifer Bernardini  
Office of Associate Chief Counsel  
Passthroughs and Special Industries  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Ms. Bernardini:

It is with great pleasure that I forward to you the enclosed Order approved by the California Energy Commission on September 10, 2008, which finds that the Energy Commission is an Equivalent Rating Network and the energy performance measurement methods, which qualify California to be an equivalent rating network, are equivalent calculation procedures pursuant to IRS Notice 2008-35. We applaud the decisions in Notice 2008-35 that recognize California, which has extensively developed building energy performance standards and state adopted energy performance measurement methods for demonstrating compliance with those standards, as being fully capable to serve as a rating network for federal tax credit purposes. We believe this is entirely consistent with the intent and direction of the Energy Policy Act's amendments to Internal Revenue Code Section 45L in enacting the New Energy Efficient Home Federal Tax Credit, and provides proper clarification to the IRS Notice 2006-27's authorization of equivalent rating networks.

The clarification of the U.S. Department of Treasury guidance in Notice 2008-35 potentially is of great importance to the achievement of California energy policy, encouragement of high energy performance homes in California and the delivery of their benefits to California citizens, stimulation of the California building industry, and realization of the energy savings and climate change goals that were the original intent of Congress in establishing the federal tax credit. Thank you very much for your clarified guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jackalynne Pfannenstiel".

JACKALYNE PFANNENSTIEL  
Chairman

Enclosure

Ms. Jennifer Bernardini  
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Cc: John Mizroch, Acting Assistant Secretary, Office of Efficiency and Renewable Energy,  
U.S. Department of Energy

David Rodgers, Deputy Assistant Secretary for Energy Efficiency, U.S. Department of Energy

Jerome R. Dion, Manager, Building Technologies Program, U.S. Department of Energy

Edward Pollock, Program Lead, Residential Programs, U.S. Department of Energy

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September 17, 2008

The Honorable Eric Solomon  
Assistant Secretary (Tax Policy)  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

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Sincerely,

A handwritten signature in cursive script, appearing to read "Pfannenstiel", written in dark ink.

JACKALYNE PFANNENSTIEL  
Chairman

Enclosure

The Honorable Eric Solomon

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Cc: John Mizroch, Acting Assistant Secretary, Office of Efficiency and Renewable Energy, U.S. Department of Energy

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